

## MATTERPORT END USER LICENSE AGREEMENT FOR ACADEMIC USE OF MODEL DATA

Last updated: November 29, 2016

### SUMMARY:

Under the following Agreement, Matterport grants You the right to use certain 3D model data. The Agreement provides that:

- The data provided by Matterport is for non-commercial academic use only.
- You must include the Agreement, or a link to it, with any material You publish that contains the data or any information derived from the data, and You must use a “click-wrap” agreement for any distribution of a substantial portion of the data.
- You are prohibited from attempting to identify the address or owner of the models to which the data pertains.
- You are not permitted to use any Matterport software embedded in the data for any purpose other than accessing the data.
- You are prohibited from using the data to create any online experience similar to Matterport’s 3D Showcase.
- Matterport provides the data to You as is. Matterport will have no liability for Your use of the data, and You will indemnify Matterport for such use.

### AGREEMENT:

This Matterport End User License Agreement for Academic Use of Model Data (“**Agreement**”) is between Matterport, Inc. (“**Matterport**”) and you or the entity that you represent (collectively, “**You**”), and governs Your use of the Matterport Dataset (defined below). If You represent an entity, You represent and warrant that You are fully authorized to enter into this Agreement on behalf of such entity.

PLEASE READ THE TERMS OF THIS AGREEMENT CAREFULLY. BY USING THE MATTERPORT DATASET, YOU SIGNIFY YOUR AGREEMENT TO ALL TERMS, CONDITIONS, AND NOTICES CONTAINED OR REFERENCED IN THIS AGREEMENT AND YOU AGREE THAT THIS AGREEMENT IS ENFORCEABLE LIKE ANY WRITTEN CONTRACT SIGNED BY YOU. IF YOU DO NOT AGREE TO THE FOREGOING AND SUCH TERMS, CONDITIONS AND/OR NOTICES, YOU DO NOT HAVE THE RIGHT TO USE THE MATTERPORT DATASET.

Matterport reserves the right to revise any portion of this Agreement in its sole discretion at any time and without prior notice to You by updating this posting, such changes to be effective prospectively. Thus, You should check this page periodically for changes. If You disagree with any changes to this Agreement, Your sole remedy is to discontinue Your use of the Matterport Dataset. Your continued use of the Matterport Dataset after a change has been posted constitutes Your acceptance of the change thereafter.

#### 1. Definitions.

“**3D Data**” means standard digital 3D models, 3D meshes, visual textures associated with 3D meshes, 3D point clouds, or other spatially located information produced by or derived from data gathered with a Matterport 3D Camera.

“**Matterport Dataset**” means Panoramic Data and 3D Data from the models of Matterport or Matterport’s customers that Matterport provides to You hereunder, including without limitation any data format information.

“**Matterport Dataset Derived Information**” means any information or technology derived from the Matterport Dataset, including without limitation any models trained on the Matterport Dataset.

“**Matterport Property**” means: (a) the Matterport Dataset; (b) all technology, software, websites, products and services of Matterport, including any technology of Matterport embodied in the Matterport Dataset; and (c) any and all look and feel, improvements, updates, modifications, translations, copies, compilations and derivative works related to any of the foregoing.

“**Panoramic Data**” means 2D panoramic image data captured by a Matterport 3D Camera regarding visual files, annotations, digital media, or other information that can be displayed in specified locations within a standard 3D model.

## **2. Access; License; Proprietary Rights; Restrictions.**

- 2.1. Access to Matterport Dataset. During the term of this Agreement, Matterport will make available to You, by download or in another manner determined by Matterport, a copy of a Matterport Dataset for a 3D models. The data included in the Matterport Dataset provided to You will be selected by Matterport in its sole discretion. Matterport will have no obligation to provide data for specific models requested by You.
- 2.2. License to Matterport Dataset. Subject to the terms and conditions of this Agreement, Matterport hereby grants You a limited, revocable, royalty-free, non-exclusive license: (a) to use the Matterport Dataset for non-commercial academic purposes only; and (b) to use any software embedded in the Matterport Dataset for the sole purpose of accessing the Matterport Dataset. Matterport has no obligation to provide any development support to You under this Agreement.
- 2.3. Proprietary Rights. Matterport and its licensors owns all right, title and interest (including all associated intellectual property rights) in and to the Matterport Property. Except for the limited license granted in Section 2.2, Matterport reserves all rights in the Matterport Property.
- 2.4. Restrictions.
  - (a) For the avoidance of doubt, except as otherwise specifically agreed by Matterport in writing (email sufficient), You shall not: (i) use or distribute the Matterport Dataset for any non-academic purpose; (ii) create, use or distribute any Matterport Dataset Derived Information for any non-academic purpose; (iii) alter, remove or destroy any attribution, proprietary markings (e.g., copyright and trademark markings) or confidential legends placed upon or contained within the Matterport Dataset; (iv) use the Matterport Dataset to create interactive online experiences similar to Matterport's 3D Showcase; (v) decompile, disassemble, decrypt, extract, reverse engineer, extract or otherwise attempt to derive the source code of any software underlying the Matterport Dataset; (vi) use any Matterport software embedded in the

Matterport Dataset for any purpose other than accessing the Matterport Dataset, or distribute any such software separately from the Matterport Dataset; or (vii) attempt to determine or extract the address, owner, or identity of any locations included in the Matterport Dataset, or any other personal information that may be included in or with the Matterport Dataset. For the avoidance of doubt, the restriction in subsections (i) and (ii) above shall not apply to any distribution of the Matterport Dataset or Matterport Dataset Derived Information to Matterport, or Matterport's use thereof.

- (b) In the event that You publish or distribute the Matterport Dataset or any Matterport Dataset Derived Information, You must include this Agreement, or a hyperlink to this Agreement, with the Matterport Dataset or any Matterport Dataset Derived Information; provided, however, that, if You distribute a substantial portion of the Matterport Dataset – either directly or as part of Matterport Dataset Derived Information – You shall require each recipient thereof to accept the terms and conditions of this Agreement by means of a mutually executed document or a “click-wrap” mechanism that: (i) requires the recipient to affirmatively accept such terms and conditions before receiving access; and (ii) keeps a record of each recipient that accepts such terms and conditions.
  - (c) As a condition of receiving the Matterport Dataset, You agree to provide to Matterport Your name, email address and academic institution, and You consent to Matterport's collection and use of such personal information for Matterport's internal purposes, including outreach to You. Furthermore, when You require recipients to accept the terms and conditions of this Agreement pursuant to Section 2(b), You shall also use reasonable efforts, to the extent permitted under applicable law, to: (a) require such recipients to provide their name, email address and academic institution to You; (b) obtain the recipients' consent for You to collect such information and share it with Matterport, and for Matterport to use it for Matterport's internal and outreach purposes; and (c) promptly provide such collected information to Matterport. You shall comply with all applicable laws and regulations relating to the collection, use and disclosure of personal information in performing Your obligations hereunder.
3. **Term; Termination.** The term of this Agreement and the license granted herein continues until this Agreement is terminated by either party; provided, however, that the license is perpetual with respect to any portion of the Matterport Dataset or any Matterport Dataset Derived Information to the extent contained in material that You published prior to the date of termination of this Agreement. You may terminate this Agreement at any time by discontinuing use of, and deleting all copies of, the Matterport Dataset and any Matterport Dataset Derived Information. This Agreement terminates automatically if You fail to comply with any of the terms of this Agreement. Upon any termination of this Agreement, You must cease use of the Matterport Dataset and any Matterport Dataset Derived Information and destroy all copies of the foregoing; provided, however, that nothing herein will obligate You to delete or remove any portion of the Matterport Dataset or any Matterport Dataset Derived Information from any material that You published prior to the date of termination of this Agreement that did not violate the terms of the Agreement. Sections 2.3, 2.4(a), and 4 through 10 shall survive any expiration or termination of this Agreement.
4. **Disclaimer.** THE MATTERPORT DATASET IS PROVIDED “AS IS.” MATTERPORT MAKES NO WARRANTY OF ANY KIND, EITHER EXPRESS OR IMPLIED, AND EXPRESSLY DISCLAIMS, ON BEHALF OF ITSELF AND ITS LICENSORS, ANY WARRANTY OF MERCHANTABILITY, FITNESS FOR A PARTICULAR PURPOSE OR NON-INFRINGEMENT. WITHOUT LIMITING THE FOREGOING, MATTERPORT MAKES NO WARRANTY THAT THE MATTERPORT DATASET WILL BE ERROR-FREE OR FREE FROM INTERRUPTIONS OR OTHER FAILURES

OR THAT THE MATTERPORT DATASET WILL MEET YOUR REQUIREMENTS. Some jurisdictions do not allow some of the foregoing exclusions or limitations, so some of these exclusions or limitations may not apply to You.

5. **Indemnification.** Matterport shall not be obligated to indemnify, defend or hold You harmless with respect to any third-party claims arising out or relating to the Matterport Dataset, including without limitation any claims for intellectual property infringement. Nothing in this Agreement shall be deemed an admission that any such claims may arise. You, at Your own expense, will indemnify, defend and hold harmless Matterport, its corporate affiliates and their respective officers, directors, employees, representatives and agents (each a “*Matterport Indemnatee*”) from and against any claim, demand, action, class action, investigation or other proceeding, including but not limited to all damages, losses, liabilities, judgments, costs and expenses (including reasonable attorneys’ fees) arising therefrom (each a “*Claim*”), brought by any third party against a Matterport Indemnatee to the extent that such Claim is based on, or arises out of: (a) a breach, or potential breach, of any of Your obligations under this Agreement; (b) Your use of the Matterport Dataset, including Your use of any Matterport Dataset Derived Data that You may create; or (c) any alleged or actual fraud, gross negligence or willful misconduct of You or Your subcontractors or agents. In the event of a claim in respect of which a Matterport Indemnatee seeks indemnification from You under this Section 5, the Matterport Indemnatee will promptly notify You in writing of the claim, cooperate with You in defending or settling the claim at Your expense, and allow You to control the defense and settlement of the claim, including the selection of attorneys; provided, however, that You shall not settle any claim unless such settlement completely and forever releases the Matterport Indemnatee from all liability with respect to such claim or unless the Matterport Indemnatee consents to such settlement in writing.
6. **Limitation of Liability.** TO THE MAXIMUM EXTENT PERMITTED BY LAW: (a) IN NO EVENT WILL MATTERPORT, ITS AFFILIATES OR LICENSORS BE LIABLE, UNDER ANY CONTRACT, NEGLIGENCE, STRICT LIABILITY OR OTHER LEGAL OR EQUITABLE THEORY FOR ANY INDIRECT, SPECIAL, INCIDENTAL, CONSEQUENTIAL, PUNITIVE OR EXEMPLARY DAMAGES; AND (b) IN NO EVENT SHALL THE TOTAL LIABILITY OF MATTERPORT, ITS AFFILIATES OR ITS LICENSORS UNDER THIS AGREEMENT EXCEED \$50. THESE LIMITATIONS SHALL APPLY NOTWITHSTANDING ANY FAILURE OF ESSENTIAL PURPOSE OF ANY REMEDY. You acknowledge and agree that the foregoing limitations of liability are essential elements of the bargain and that in the absence of such limitations, the financial and other terms of this Agreement would be substantially different. Some jurisdictions do not allow the exclusion or limitation of incidental or consequential damages, so these limitations may not apply to You.
7. **Notice to United States Government End Users.** If You are the U.S. Government or if You are a contractor or subcontractor (at any tier) of the U.S. Government and are licensing the Matterport Dataset for use by the U.S. Government or in connection with any contract or other transaction with the U.S. Government, You acknowledge that by installing and using the Matterport Dataset, the Matterport Dataset qualifies as commercial computer software and that any associated documentation qualifies as commercial computer software documentation within the meaning of the applicable acquisition regulations. The terms and conditions of this Agreement are fully applicable to the Government’s use and disclosure of the Matterport Dataset and associated documentation, and shall supersede any conflicting terms or conditions.

8. **Compliance with Law.** You represent and warrant that: (a) You are not located in a country that is subject to a U.S. Government embargo, or that has been designated by the U.S. Government as a “terrorist supporting” country; and (b) You are not listed on any U.S. Government list of prohibited or restricted parties. You may not export, re-export, import, or transfer the Matterport Dataset in violation of any applicable export laws or regulations, and You may not assist or facilitate others in doing any of the foregoing. You acknowledge that it is Your responsibility to comply with any and all applicable export and import laws.
9. **Governing Law; Venue.** This Agreement shall be interpreted in accordance with the laws of the state of California without reference to its conflict of law provisions. Any litigation, suit or other proceeding regarding the rights or obligations of the parties hereunder shall be conducted exclusively before the state and federal courts in and for Santa Clara County, California, and the parties specifically consent to Santa Clara County, California, as the exclusive venue for any such proceeding. This Agreement shall not be governed by the United Nations Convention on Contracts for the International Sale of Goods, the application of which is expressly excluded.
10. **Miscellaneous.** If any provision of this Agreement is held to be unenforceable, such provision shall be reformed to the extent necessary to make it enforceable so as to effect the intent of the parties, and the remainder of this Agreement shall continue in full force and effect. A waiver of any default is not a waiver of any subsequent default. You may not assign or otherwise transfer any of Your rights hereunder without Matterport’s prior written consent, and any such attempt is void. This Agreement is binding upon and is for the benefit of the respective successors and assigns of the parties hereto. The parties acknowledge and agree that a material breach of this Agreement adversely affecting Matterport’s proprietary rights would cause irreparable harm to Matterport for which a remedy at law would be inadequate and that Matterport shall be entitled to injunctive relief in addition to any remedies it may have hereunder or at law. This Agreement is the complete agreement between Matterport and You concerning Your use of the Matterport Dataset, and supersedes any and all prior agreements and representations between Matterport and You related to the same subject matter. Unless otherwise specified herein, all notices and other communications required or permitted to be given or made hereunder shall be in writing and: (a) if to Matterport, delivered personally or sent by pre-paid, first class certified or registered mail, return receipt requested or by overnight courier, to Matterport, Inc., 352 E. Java Drive, Sunnyvale, CA 94089, Attn: Legal Notices; or (b) if to You, by email or by pre-paid, first class certified or registered mail, return receipt requested or by overnight courier to Your mailing address. No amendment of any provision of this Agreement shall be effective unless made in accordance with preliminary paragraphs hereof or set forth in a writing signed by a representative of Matterport and You, and then only to the extent specifically set forth therein.